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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

TESLA, INC., a Delaware corporation,

Plaintiff,

v.

MARTIN TRIPP, an individual,

Defendant.

Case No. 3:18-cv-00296-LRH-CBC

**EXPERT REPORT OF JEFFREY H. KINRICH**

November 8, 2018

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## I. INTRODUCTION

### A. Assignment

1. I have been engaged by Hueston Hennigan LLP, attorneys for Tesla, Inc. (“Tesla” or “the Company”), to provide expert testimony in the matter of *Tesla, Inc. v. Martin Tripp* pending in the U.S. District Court for the District of Nevada under case number 3:18-cv-00296-LRH-CBC. Tesla alleges, among other things, that the Defendant, Mr. Tripp, stole confidential information and trade secrets from Tesla while in the Company’s employ and made false claims about this information to the media.<sup>1</sup> I have been asked to evaluate certain categories of losses suffered by Tesla from the alleged misconduct, related to (i) Mr. Tripp’s breach of loyalty, (ii) Tesla’s out-of-pocket losses, and (iii) harm to the Company measured by Tesla’s stock price reaction. I also expect to review, and where appropriate respond to, any analysis or opinions put forth by Defendant or his experts related to the issue of damages.

### B. Qualifications and Experience

2. I am a Managing Principal at Analysis Group, Inc., an economic, financial and strategy consulting firm. I graduated summa cum laude from Pomona College with a Bachelor of Arts degree in Mathematics. I received a Master of Science degree in Statistics from Stanford University and a Master of Business Administration in Finance and Quantitative Methods from the University of Maryland. I am a Certified Public Accountant and have more than 36 years of experience analyzing damages in commercial disputes. A copy of my CV, together with a list of the trial and deposition testimony I have given in the last four years, is attached as **Appendix A**.

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<sup>1</sup> Complaint, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, June 20, 2018 (“Complaint”).

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3. Analysis Group is compensated at the rate of \$750 per hour for my time. Research and analysis for this report was also performed by Analysis Group personnel under my direction and guidance. Rates for other staff working on this matter range from \$310 to \$550 per hour. Neither my compensation nor that of Analysis Group is contingent upon my findings, the testimony I may give, or the outcome of this litigation.

### **C. Materials Considered**

4. In forming my opinions, I have reviewed documents and other materials provided to me by counsel for Plaintiff or obtained from public sources. These materials include, among others, the Complaint, stock price data, news articles, and information produced by the parties to this litigation. The materials I considered are identified in this report and accompanying exhibits or listed in **Appendix B**. Should additional relevant documents or information be made available to me, I may adjust or supplement my opinions as appropriate.

## **II. BACKGROUND**

5. Plaintiff Tesla, Inc. is a publicly traded Delaware corporation with its principal place of business in Palo Alto, California.<sup>2</sup> It designs, manufactures, and sells electric vehicles and electric vehicle powertrain components, among other things.<sup>3</sup>

6. Defendant Mr. Tripp is a former employee of Tesla.<sup>4</sup> Mr. Tripp joined Tesla in October 2017 at the Nevada Gigafactory as a process technician.<sup>5</sup> I understand that, as a

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<sup>2</sup> “About Tesla”, available at <https://www.tesla.com/about/>, accessed November 5, 2018; *See also* Complaint, ¶ 8.

<sup>3</sup> “Tesla Motors Ltd - Company Profile,” Bloomberg, available at <https://www.bloomberg.com/profiles/companies/0651778D:LN-tesla-motors-ltd>, accessed November 5, 2018.

<sup>4</sup> Complaint, ¶ 1.

<sup>5</sup> Complaint, ¶ 10.

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condition of his employment, Mr. Tripp agreed not to use or disclose Tesla's confidential and proprietary information except in connection with his work with Tesla.<sup>6</sup> Furthermore, I understand that Mr. Tripp owed a duty of undivided loyalty to Tesla under Nevada law and was legally required to act with good faith towards the Company.<sup>7</sup>

7. I understand that Mr. Tripp stole confidential and trade secret information and disclosed it to third parties.<sup>8</sup> He also made false statements apparently intended to harm the Company.<sup>9</sup> Tesla alleges that Mr. Tripp used the Tesla data that he exported to grossly overstate the true amount and value of "scrap" material that Tesla generated during the manufacturing process. Moreover, he is alleged to have falsely claimed that Tesla was delayed in bringing certain new manufacturing equipment online at the Gigafactory.<sup>10</sup>

8. On June 4, 2018, *Business Insider* published a news article ("June 4 Article") titled "Internal documents reveal Tesla is blowing through an insane amount of raw material and cash to make Model 3s, and production is still a nightmare."<sup>11</sup> Relying on "internal documents" and an anonymous Tesla employee (later revealed to be Mr. Tripp), the June 4 Article claimed, among other things, that Tesla was generating an "incredible" amount of waste (almost \$150 million) in an effort to manufacture parts for Model 3 vehicles. The anonymous Tesla employee

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<sup>6</sup> Complaint, ¶ 11.

<sup>7</sup> Complaint, ¶ 11.

<sup>8</sup> On June 14 and 15, 2018, Tesla investigators interviewed Mr. Tripp regarding his misconduct. Mr. Tripp admitted to collecting confidential and proprietary information from Tesla's manufacturing operating system ("MOS") and to transferring that information to entities outside the Company. This included dozens of photographs and a video of Tesla's manufacturing systems. *See* Complaint, ¶ 14.

<sup>9</sup> Complaint, ¶ 13.

<sup>10</sup> Complaint, ¶¶ 4, 17.

<sup>11</sup> Linette Lopez, "Internal documents reveal Tesla is blowing through an insane amount of raw material and cash to make Model 3s, and production is still a nightmare," *Business Insider*, June 4, 2018, available at <https://www.businessinsider.com/tesla-model-3-scrap-waste-high-gigafactory-2018-5>, accessed November 5, 2018.

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also claimed that “[i]n February, a mis-programmed robot that handles battery modules repeatedly punctured through the plastic housing (called a clamshell) and into some battery cells” and that “instead of scrapping all the modules, some were fixed with adhesive and put back on the manufacturing line.”<sup>12</sup> A Tesla spokesperson told *Business Insider* that \$150 million overstated the amount of waste and that no punctured battery modules were released back to the manufacturing process. The article included other claims as well.

9. On June 6, 2018, *Business Insider* published another article (“June 6 Article”), titled “Tesla’s new Gigafactory robots that are supposed to help it ramp up Model 3 production aren’t working yet.”<sup>13</sup> The June 6 Article alleged, among other things, that new robots at Tesla’s Gigafactory, which were meant to play a key role in Model 3 production, were not yet operational. According to a Tesla spokesperson, the robots were not supposed to be operational by that time.<sup>14</sup> An anonymous source, later revealed to be Mr. Tripp, provided *Business Insider* with video of the machine in its nonoperational state. The June 6 Article repeated the claim that Tesla was generating almost \$150 million of waste from the beginning of the year to the end of May.

10. On August 15, 2018, Tripp publicly posted Tesla information on Twitter, including a list of vehicle identification numbers (“VIN”) of Model 3 vehicles. Tripp further

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<sup>12</sup> *Id.*

<sup>13</sup> Linette Lopez, “Tesla’s new Gigafactory robots that are supposed to help it ramp up Model 3 production aren’t working yet,” *Business Insider*, June 6, 2018, available at <https://www.businessinsider.com/teslas-new-gigafactory-robots-are-not-making-batteries-yet-2018-6>, accessed November 5, 2018.

<sup>14</sup> *Id.*

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Tweeted: “Are any of these VIN’s YOUR car? If so, you have a module(s) that IS punctured/dented/damaged.”<sup>15</sup>

### III. ANALYSIS AND OPINIONS

11. As discussed above, counsel for Tesla has asked me to quantify certain losses Tesla incurred as a result of Mr. Tripp’s breach of loyalty, as well as out-of-pocket losses the Company incurred as a result of Plaintiff’s misconduct. Additionally, I have been asked to discuss certain aspects of the harm to Tesla caused by Plaintiff’s disclosure of confidential information to the press. I discuss these each in turn below.

12. In conducting my analyses, I necessarily assume that Tesla’s allegations are true and that Tesla prevails on its claims against Mr. Tripp.

#### A. Mr. Tripp’s Breach of Loyalty

13. As discussed above, I understand that Mr. Tripp owed a duty of undivided loyalty to Tesla and, further, that his misconduct constitutes a breach of that duty. Damages related to Mr. Tripp’s breach of loyalty include the compensation he received from Tesla while in breach of his duty. To allow me to quantify these damages, counsel has provided me with Mr. Tripp’s hourly rate and information regarding the hours he worked starting from his first breach through

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<sup>15</sup> Defendant/Counterclaimant Martin Tripp’s Responses and Objections to Plaintiff/Counterdefendant Tesla, Inc.’s First Set of Requests for Admission, Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant, Case No. 3:18-cv-00296-LRH-CBC, October 11, 2018, p. 3. Tripp, Martin (@trippedover). “Are any of these VIN’s YOUR car? If so, you have a module(s) that IS punctured/dented/damaged. #TSLA #TSLAQ @elonmusk (Subsidy Fraud-Boy).” August 15, 2018, 2:09 PM PT. Tweet. *See also* Tripp, Martin (@trippedover). “Cont...” August 15, 2018, 2:10 PM PT. Tweet; Tripp, Martin (@trippedover). “and still more...” August 15, 2018, 2:10 PM PT. Tweet; Tripp, Martin (@trippedover). “and...” August 15, 2018, 2:10 PM PT. Tweet.

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the termination of his employment by Tesla on June 19, 2018.<sup>16</sup> This calculation, depicted in **Exhibit 1**, results in \$7,385 in damages.

**B. Tesla's Out-of-Pocket Damages**

14. Tesla's out-of-pocket costs come in two forms. First, Tesla hired Nisos Group LLC ("Nisos") to investigate the identity of the employee that was the source of the information contained in the two *Business Insider* articles mentioned above. Second, Tesla employees devoted valuable time to this investigation as well.

15. In regard to the first category of out-of-pocket costs, Counsel provided me with the time spent and hourly rates of the Nisos investigation team. Counsel also provided me with the expenses the team incurred, which include equipment and travel expenses. As shown in **Exhibit 2**, in total Tesla incurred \$249,494 in fees and costs paid to Nisos.

16. As for the second category, I spoke with three Tesla employees to understand the amount of time they spent investigating Plaintiff's misconduct. I learned that (i) Nicholas Gicinto, Senior Manager of Global Security Response, spent [REDACTED] hours, (ii) Imari Henderson, who was at that time HR Business Partner, conservatively estimated that he spent [REDACTED] hours, and (iii) Andrew Lindemulder, who was at that time Desktop Support Lead, conservatively estimated that he spent approximately [REDACTED] hours.<sup>17</sup>

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<sup>16</sup> I understand that the breach began when Mr. Tripp first contacted the press around May 27, 2018. *See* TRIPP00940. I therefore calculate damages beginning on May 28, 2018, which is the start of the second week of the May 21, 2018 through June 3, 2018 pay period, through Mr. Tripp's termination on June 19, 2018. *See* CNTL00779426 – CNTL00779428.

<sup>17</sup> I spoke with each of these three individuals via telephone on November 2, 2018. Note that this measure of the time that Tesla employees devoted to the investigation is conservative as it only includes the three individuals identified above rather than all employees involved. It is also conservative in that it does not include time Tesla employees spent in responding to customer and other inquiries regarding Mr. Tripp and Model 3 vehicles.

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17. In order to assign a value to those hours, I use two methods. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] These two methods are laid out in **Exhibit 3**. As the exhibit shows, the total value of the time these three individuals spent on this investigation was \$12,425.

18. In total, as shown in **Exhibit 4**, Tesla's out-of-pocket's damages are \$261,919.

### C. Stock Price Reaction

19. The other type of harm to Tesla that I have been asked to explore is the harm to the Company due to Plaintiff's disclosure of confidential information contained in the two *Business Insider* articles. One way of measuring such harm is to look at how Tesla's stock price reacted after those articles were first published.

20. In most circumstances, to look at the stock price reaction to certain events, one would look at the change in stock price on the day of the event in question. However, these articles were both published near the close of the NASDAQ market at 4:00 PM Eastern Time ("ET"). The June 4 Article was published at 3:42 PM ET and the June 6 Article was published at 3:21 PM ET. Consequently, it would be inappropriate to examine the stock price changes on June 4 and June 6 prior to the publication times. Therefore, to evaluate how Tesla's stock price moved after the *Business Insider* articles were published, I examined intraday trading data.



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21. **Exhibit 5** presents intraday data for June 4 covering the last two hours of trading (that is, 2:00 PM ET to 4:00 PM ET).<sup>18</sup> As the chart shows, from the minute before the June 4 Article was published at 3:42 PM until the market closed, Tesla's share price fell \$0.20 per share (or 0.07 percent). Given the 170.5 million shares of Tesla stock outstanding at the time, this translates into a \$34 million decline in market capitalization over those 19 minutes of trading. While the S&P 500 decreased 0.02 percent over the same 19-minute period, the NASDAQ Composite Index and the NASDAQ OMX Global Automobile Index both increased, by 0.02 percent and 0.04 percent, respectively. This indicates that the decline is not attributable to general market or industry trends.<sup>19</sup> Details on Tesla's market capitalization change on June 4 and on the industry benchmarks' returns are shown in **Exhibits 7 and 8**, respectively.<sup>20</sup>

22. **Exhibit 6** presents the same data as **Exhibit 5**, but for June 6. As the chart shows, from the minute before the June 6 Article was published at 3:21 PM until the market closed, Tesla's share price fell \$0.78 per share (or 0.25 percent). Given the 170.5 million shares of Tesla stock outstanding, this translates into a \$134 million decline in market capitalization over those 40 minutes of trading. The S&P 500, NASDAQ Composite, and NASDAQ OMX Global Automobile Index indices all increased over the same 40-minute period (by 0.16 percent, 0.15 percent, and 0.05 percent, respectively). This again indicates that the decline is not attributable to general market or industry trends. Further details are shown in **Exhibits 7 and 8**.

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<sup>18</sup> When more than one trade took place in a given minute, the exhibit presents the average price of those trades.

<sup>19</sup> Tesla is included in the NASDAQ OMX Global Automobile Index. Given that, as mentioned, Tesla's share price fell over this period, this implies that the share prices of the other 33 members of the index increased, on average, even more than 0.04 percent. See NASDAQ OMX Global Automobile Index weighting information, available at <https://indexes.nasdaqomx.com/Index/Weighting/QAUTO>.

<sup>20</sup> Based on a search of news on Factiva and Bloomberg, there was no additional news beyond re-reporting prior news between the June 4 Article and market close nor between the June 6 Article and market close on their respective days.

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#### IV. CONCLUSION

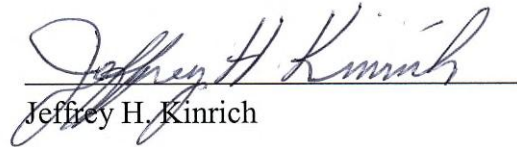
23. In summary, I find that damages owed to Tesla for Mr. Tripp's breach of loyalty include unearned wages of \$7,385.

24. Furthermore, I present two categories of out-of-pocket damages incurred by Tesla. First, Tesla paid Nisos \$249,494 in fees and costs in order to investigate this matter. Second, three Tesla employees spent a combined total of [REDACTED] hours, worth \$12,425, on this matter. In total, Tesla's out-of-pocket damages are \$261,919.

25. Furthermore, in the brief period of trading that took place between the publication of each of the June 4 Article and June 6 Article and the close of the NASDAQ trading day, Tesla's market capitalization declined by \$34 million and \$134 million, respectively, or \$167 million in total over those two short time windows.

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26. To the extent additional information comes to my attention, I will update my analyses and opinions as appropriate, as permitted by the Court.

  
Jeffrey H. Kinrich

November 8, 2018

## Appendix A

### JEFFREY H. KINRICH Managing Principal

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Los Angeles, CA 90071

Jeff Kinrich has over three decades of litigation consulting experience with business clients and individuals on engagements involving applications of financial and economic analysis, accounting, business valuation and statistics. He specializes in damage quantification and valuation in the areas of commercial litigation and intellectual property. Mr. Kinrich has testified frequently on damages, valuation, and accounting issues in numerous state and federal courts. He is a Certified Public Accountant and holds an Accreditation in Business Valuation.

### EDUCATION

1980	M.B.A., Finance and Quantitative Methods (with honors, first in class), University of Maryland
1977	M.S., Statistics, Stanford University
1976	B.A., Mathematics ( <i>summa cum laude</i> , <i>Phi Beta Kappa</i> , first in class), Pomona College

### PROFESSIONAL EXPERIENCE

2001–Present	Analysis Group, Inc. <i>Managing Principal</i>
1981–2001	PricewaterhouseCoopers LLP <i>Partner, Financial Advisory Services</i>
1978–1980	BDM Corporation <i>Statistical Analyst</i>
1977–1978	Lawrence Livermore Laboratory <i>Statistician</i>

### AWARDS

Elijah Watts Sells Silver Medal for second highest score in the U.S. on CPA Examination  
Forbes Gold Medal for the highest CPA examination score in California.  
Volunteer of the Year, AICPA Forensic and Litigation Services

### PROFESSIONAL AND BUSINESS AFFILIATIONS

Certified Public Accountant

Member of the American Institute of Certified Public Accountants and the California Society of Certified Public Accountants

Accredited in Business Valuation (ABV)

Certified in Financial Forensics (CFF)

California Society of CPAs Litigation Sections, Steering Committee

American Institute of CPAs, Forensic and Litigation Services Committee (former)

Phi Beta Kappa

Board of Directors and Chair of Audit Committee, Bet Tzedek Legal Services

## **SELECTED EXPERIENCE**

### **Commercial Damages**

- Evaluated lost profits damages for hundreds of commercial litigation engagements, including breach of contract, employment and business tort matters. Matters involved dozens of different industries.
- Analyzed revenue, cost, profit, and typicality issues in connection with consumer class actions. Evaluated class action damages, including actual loss to plaintiffs and unjust enrichment to defendants.
- Evaluated impact of mergers on value of combined firms; computed damages resulting from failed or improperly implemented mergers.
- Measured losses due to business interruption.
- Determined damages from breach of distribution and franchising agreements.
- Valued assets and evaluated accounting issues in connection with merger and purchase price disputes.
- Conducted several alter ego studies. Searched for commingling of funds, violation of corporate formalities, and other improper transactions between the company and shareholder/parent.
- Analyzed and testified about Generally Accepted Accounting Principles, cost accounting issues, accounting records, and related matters.
- Computed damages from loss of individual earnings in connection with wrongful termination, employment, and personal injury claims. Such claims included loss of wages, commissions, and bonuses. Considered issues of mitigation and discounting.
- Provided technical consulting on many applications of statistics to litigation, including statistical sampling, regression analysis, time series, probability theory, and survey design.
- Served as an arbitrator or court-appointed special master in several commercial disputes.

### **Intellectual Property**

- Analyzed patent infringement damages under both lost profits and reasonable royalty approaches for a wide variety of patents. Industries include medical and surgical products, semiconductors, digital and optical switches, HIV diagnostic test kits, cable television, cell phones, aircraft engine housings, telephone equipment, toys, computer printer cartridges, disposable diapers, automobile components and accessories, cigarette lighters, photographic equipment, oil tools, satellite antenna feeds, water coolers, athletic shoes, contact lenses, sprinkler systems, computer disks, magnetic insoles, robotic surgery equipment, compact disk cases, superconducting amplifiers, food products, bottle inspection

machinery, molded dog houses, landscape lighting systems, disposable respirators, airport security equipment, and bicycle seats.

- Measured patent damages for business method patents, including insurance processing systems, space orbital trajectories, encryption algorithms, and farming methods.
- Negotiated a reasonable royalty in settlement of a patent dispute.
- Measured damages from various trademark, false advertising, and copyright infringement matters, including software and entertainment properties. Apportioned profits between infringing and non-infringing elements.
- Computed damages for trade secrets and non-compete agreements. Issues involved theft of customer lists, business plans, and manufacturing methods and technologies.

#### **Technology/Computers**

- Conducted numerous damage studies related to high tech intellectual property, including semiconductors, space systems, computers, printers, medical products, and search engine design. Computed both lost profits and reasonable royalties.
- Measured damages in connection with several Internet issues, including cybersquatting, communications protocols, and misuse of website names.
- Computed lost profits and disgorgement from sale of counterfeit software.
- Testified as to the value of a software VAR agreement.
- Conducted international transfer pricing analysis for computer manufacturer.
- Determined damages from breach of a software/firmware development agreement.

#### **Entertainment**

- Determined royalties owed to entertainers and managers.
- Computed damages for copyright and breach of contract issues related to infomercial sales.
- Measured actual losses and disgorgement of profits from copyright infringement related to scripts and story ideas.
- Assessed damages from a breach of contract in connection with the development of a major videogame franchise.
- Assisted numerous entertainment executives and performers in valuing personal, professional, and entertainment assets.
- Computed lost profits from a breach of an agreement to lease movie projection equipment.
- Valued the overseas rights to a catalog of films.
- Estimated damages related to failure to execute a film financing guarantee.
- Analyzed cost savings and antitrust issues resulting from selling box-lot quantities of recorded music at a discounted price.
- Evaluated the likely impact of a new video distribution technology.
- Measured value of broadcast and publicity rights.

- Computed damages related to breach of radio advertising sales contract.
- Evaluated reasonable fees to be paid for a broadcast television series.
- Computed royalties due for film rights distributed through various media.
- Measured unjust enrichment and disgorgement from misappropriation of the Academy Award® of Merit Oscar statuette image.
- Valued movie download rights in connection with a distribution deal.

### **Employment**

- Measured statistical likelihood of differential results in employment decisions.
- Conducted and/or supervised numerous employment related damages analyses, including assessing claims for lost wages, lost commissions, and loss associated with alleged inadequate expense reimbursements.
- Analyses were conducted in connection with both class action and individual claims.

### **Telecommunications**

- Conducted a lost profits study for a major telecommunications antitrust suit.
- Measured damages in connection with various telecommunications patents and trade secrets.
- Testified as to damages from alleged below cost pricing of telecommunications services.
- Critiqued plaintiff's claim in an offshore telecom litigation.
- Worked for a cellular telephone service provider defending against breach of contract claims from a former agent.
- Testified concerning the value of stock in two privately held communications companies in conjunction with a purchase price dispute.
- Analyzed claim of predatory pricing in the cellular industry.
- Acted as arbitrator in telecommunications contract dispute.

### **Automobile Industry**

- Conducted various damage analyses involving automobile dealership disputes, including dealer terminations, dealer relocations, and failure to award a dealership. Analyzed dealer financial records and other economic information to quantify the value of automobile dealerships.
- Analyzed losses from a breach of an acquisition/sale agreement for an automobile parts manufacturer.
- Computed damages for patent infringement of an automobile parts manufacturing patent.
- Conducted transfer pricing study for automobile importer.
- Investigated alternative causes for failure of auto dealerships. Searched for diverted funds.
- Acted as a neutral arbitrator in dispute between automobile manufacturer and insurer over extended warranty payments.
- Assisted automobile manufacturer in investigating fraud and diversion of funds in connection with a collection dispute.

- Analyzed accounting issues in connection with the sale of a dealer network.

#### **Class Action/Class Certification**

- Provided financial and statistical analyses in opposition to class certification and class damage computations in late fee cases filed by consumers against various companies.
- Worked on behalf of a major car rental company in a class action matter alleging failure to comply with the law in advertising rental rates.
- Evaluated whether the alleged violations had common impact across class members and whether a common damages methodology could be applied in a matter concerning overcharges.
- Worked on class action suits alleging false advertising related to various consumer products including collectable dolls and energy drinks.
- Addressed class certification in an action brought by consumers alleging false advertising related to a consumer hygiene product.
- Worked with several companies in defending wage and hour class action matters.

#### **Business Valuation**

- Valued numerous businesses in connection with commercial or personal disputes.
- Valued intangibles, including patents, trademarks, copyrights, trade secrets, and business protocols.
- In connection with an international bankruptcy, apportioned sales proceeds to various national entities based on the value relinquished in the transactions.

#### **Family and Partnership Law**

- Conducted valuations of numerous private businesses.
- Performed analyses of lifestyle and cash available for support.
- Valued professional practices, including law firms and accounting firms. Performed valuations for divorce purposes and to wrap up partnerships under *Jewel v. Boxer*.
- Determined community portion of earnings and assets under various circumstances. Apportioned and valued stock options and profit participations.
- Traced and valued separate vs. community property. Conducted Periera-Van Camp analyses of pre-marital property.

#### **Construction/Environmental**

- Evaluated statistical methods for invasive testing of construction defects.
- Opined about appropriate expenditures by homeowner's associations in connection with maintenance and capital expenditures.
- Testified for a construction contractor as to the amount due in a breach of contract dispute, and provided opinion on alter ego issues.
- Measured the diminution in value and lost rents due to a construction delay claim resulting from environmental contamination.



## Tax Disputes

- Conducted transfer pricing studies for automobile importer, semiconductor manufacturer, computer maker, and consumer electronics manufacturer.
- Designed sampling methodology to evaluate customs duty drawback claims.
- Measured damages from improper conversion from an S-Corp. to a C-Corp.

## PUBLICATIONS

*Lost Profits Damages: Principles, Methods, and Applications*, co-edited with Everett P. Harry, Valuation Products and Services (2017)

“Analysis of Cost Behavior,” with Elizabeth Eccher and James Rosberg, Chapter 11 of *Lost Profits Damages: Principles, Methods and Applications*, Harry and Kinrich, editors (2017)

“Risk and Economic Damages: Theoretical and Practical Issues,” with Brian Brinig, *Dunn on Damages*, Issue 7 (Summer 2012)

“Can a Reasonable Royalty Ever Be Zero?” with Michael Hsu, *Intellectual Property Today* (May 2011)

“Discount Rate, Risk & Economic Damages: Practical Considerations,” with Brian Brinig, *Business Valuation Update*, Vol. 15, No. 9 (September 2009)

“Analysis and Measurement of Damages in Patent Infringement Actions,” *Calculating Patent Damages*, Law Seminars International (2009)

“Engagement Letters for Litigation Services: Business Valuation and Forensic & Litigation Services Practice Aid 04-1,” co-author, *American Institute of Certified Public Accountants* (2004)

“Trademark Misuse,” *Litigation Support Report Writing: Accounting, Finance, and Economic Issues*, Friedman and Weil, eds., John Wiley & Sons (2003)

“Analysis and Measurement of Damages in Patent Infringement Actions,” co-author, *Patent Litigation 2001*, Practising Law Institute (2001)

“Cost Estimation,” *Litigation Services Handbook: The Role of the Accountant as Expert Witness*, 3rd ed., Weil, Wagner, and Frank, eds., John Wiley (2001)

“Preparing for Daubert Challenges in Antitrust Cases,” co-author, *Antitrust Section of the American Bar Association, Economic Committee Newsletter* (Spring 2001)

“Conflicting Rulings About Conflicts,” co-author, *The Witness Chair*, California Society of CPAs (Fall 1996)

“Damage Measures in Patent Infringement Actions,” co-author, *Second Annual Institute for Intellectual Property Law*, Practising Law Institute (1996)

“Damages on the Internet,” *Proceedings of the AIPLA Winter Conference*, AIPLA (1996)

“Section 482 and Technology Transfers,” co-author, *Price Waterhouse, Intellectual Property Conference* (1993)

“Dull Witnesses,” *Litigation*, American Bar Association, Vol. 19, No. 3 (Spring 1993)

“Economic Damages in Patent Infringement Cases,” co-author, *Patent Litigation 1991*, Practising Law



Institute (1991)

“Forensic Accounting and Litigation Consulting Services,” co-author, *The Accountant's Handbook*, 7th ed., John Wiley (1990)

**Testimony List of Jeffrey H.  
Kinrich (2013 - Present)**

<b><u>MATTER</u></b>	<b><u>YEAR</u></b>	<b><u>COURT</u></b>	<b><u>DEPOSITION</u></b>	<b><u>TRIAL</u></b>
Evans v Trope & Trope	2012, 2013	Arbitration, Los Angeles	X	X
JC Trading v Wal-Mart	2013	Federal District Court, Delaware	X	
Schultz v Douglas Steel	2013	California Superior Court, Los Angeles	X	X
Aberle v Brookfield Homes	2013	California Superior Court, Riverside	X	
Exclaim Marketing v DIRECTV	2013, 2014	Federal District Court, Eastern District of North Carolina	X	X
Vantage v Taylor Woodrow Homes	2013	California Superior Court, Orange	X	
Color Me Mine v. Southern States Marketing, Peachtree Playthings et al.	2013	Federal District Court, Central District of California	X	
Elias (Riverside Dental) v. American Dental Partners	2013	JAMS Arbitration, Orange County		X
Guidance Endodontics v Modrall Sperling	2013	New Mexico District Court, Bernalillo County	X	
Tessera v. Powertech Technology	2013	Federal District Court, Northern District of California	X	
Guillen v Centex	2014	California Superior Court, Riverside	X	X

**Testimony List of Jeffrey H.  
Kinrich (2013 - Present)**

<b><u>MATTER</u></b>	<b><u>YEAR</u></b>	<b><u>COURT</u></b>	<b><u>DEPOSITION</u></b>	<b><u>TRIAL</u></b>
American Innotech v United States	2014	Federal Court of Claims	X	X
Basic Your Best Buy v DIRECTV	2014	California Superior Court, Los Angeles	X	
In re Nortel Networks	2014	Federal Bankruptcy Court, Delaware and Superior Court of Justice, Ontario, Canada	X	X
NNN Britannia Business Center v NNN Realty Investors, LLC et al	2014	American Arbitration Association	X	
Marriage of Kranefuss & Frank	2014	California Superior Court, Marin County	X	X
Moroccanoil v Marc Anthony Cosmetics	2014	Federal District Court, Central District of California	X	
Gemsa Enterprises v Specialty Foods of Alabama & Tsitalia	2014	Federal District Court, Central District of California	X	
Irvine v Cal Pac Homes (Solana)	2014	California Superior Court, Orange County	X	
Quicksilver v Rox Volleyball et al	2014, 2015	Federal District Court, Central District of California	X	X
ICON-IP v Specialized Bicycle Components	2015	Federal District Court, Northern District of California	X	
InfoSpan v Emirates NBD Bank	2015	Federal District Court, Central District of California	X	

**Testimony List of Jeffrey H.  
Kinrich (2013 - Present)**

<b><u>MATTER</u></b>	<b><u>YEAR</u></b>	<b><u>COURT</u></b>	<b><u>DEPOSITION</u></b>	<b><u>TRIAL</u></b>
Clemmy's v Nestle	2015	California Superior Court, Los Angeles	X	
His & Her v Shake-N-Go et al	2015	Federal District Court, Central District of California	X	
Smith Trust v Summerland LLC	2015	JAMS Arbitration, Los Angeles		X
Paolo Moreno v. SFX Entertainment, Inc.	2015	Federal District Court, Central District of California	X	
Downey et al v Autozone, Inc.	2015	California Superior Court, Los Angeles	X	
Courtyards at Dublin Ranch Villages Owner's Ass'n v Toll-Dublin LLC et al	2015	California Superior Court, Alameda	X	
January v Dr. Pepper Snapple	2015	Federal District Court, Central District of California	X	
MOMCO v Guaranteed Rate, Inc, Anderson, et al.	2015, 2016	California Superior Court, Los Angeles	X	X
Razor USA LLC v Vizio	2015	Federal District Court, Central District of California	X	
Terraces at Dublin Ranch Village Owner's Ass'n v Toll-Dublin LLC et al	2015	California Superior Court, Alameda	X	
Sonova v Mann et al.	2015	JAMS Arbitration, Los Angeles		X

**Testimony List of Jeffrey H.  
Kinrich (2013 - Present)**

<b><u>MATTER</u></b>	<b><u>YEAR</u></b>	<b><u>COURT</u></b>	<b><u>DEPOSITION</u></b>	<b><u>TRIAL</u></b>
OpenGate Capital v Thermo Fisher	2015	Federal District Court, Delaware	X	
UMG Recordings, Inc. v Global Eagle Entertainment, Inflight Productions, et al.	2015	Federal District Court, Central District of California	X	
Jasniy v 3M Company, et al (Hennessey, et al.)	2015	California Superior Court, Los Angeles	X	
Unitherm v Hormel Foods	2016	Federal District Court, Minnesota	X	
Freeman Investment Management v Frank Russell Co.	2016	Federal District Court, Southern District of California	X	
Sorenson v New Koosharem Corp.	2016	Federal District Court, Central District of California	X	
Viacom International v MGA Entertainment	2016	Federal District Court, Central District of California	X	
Malik v Kayne Anderson Capital Advisors LP et al.	2016	JAMS Arbitration, Los Angeles		X
Toyo Tires v CIA Wheel Group	2016	Federal District Court, Central District of California	X	
Gilat & Wavestream v Mission Microwave	2016	Federal District Court, Central District of California	X	
Villas at Dublin Ranch v Toll Brothers	2016	California Superior Court, Alameda	X	

**Testimony List of Jeffrey H.  
Kinrich (2013 - Present)**

<b><u>MATTER</u></b>	<b><u>YEAR</u></b>	<b><u>COURT</u></b>	<b><u>DEPOSITION</u></b>	<b><u>TRIAL</u></b>
Regents of the University of California v. Aisen, University of Southern California, et al.	2016	Federal District Court, Southern District of California	X	
Kaseberg v Conaco et al	2016	Federal District Court, Southern District of California	X	
4 Corners v Nazarian	2017	California Superior Court, Los Angeles	X	
Cone v Causeway	2017	California Superior Court, Los Angeles	X	
Kaufman v Blue Shield	2017	California Superior Court, Los Angeles		X
Kennedy v Regency Outdoor	2017	California Superior Court, Los Angeles	X	
Craven v Centex	2017, 2018	California Superior Court, Orange	X	X
UM Corp v Tsuburaya	2017	Federal District Court, Los Angeles	X	
Simkhai & Grindr Holdings Co v KL Grindr et al	2017	American Arbitration Association	X	
The Mark Condominium Owners Assoc. v Hensel Phelps et al	2017	California Superior Court, San Diego	X	X (402)
ICSOP v County of San Bernardino	2017	Federal District Court, Central District of California	X	

**Testimony List of Jeffrey H.  
Kinrich (2013 - Present)**

<b><u>MATTER</u></b>	<b><u>YEAR</u></b>	<b><u>COURT</u></b>	<b><u>DEPOSITION</u></b>	<b><u>TRIAL</u></b>
Alstatt v Centex Homes	2017	Nevada State Court	X	
SwiftAir v Row44 and Southwest Air	2017	California Superior Court, Los Angeles	X	
Toyo Tire v Atturo Tire	2017	Federal District Court, ND of Illinois	X	
Carducci v Centex Homes	2018	Nevada State Court	X	
ALS Scan v Cloudflare	2018	Federal District Court, ND of California	X	
Sarkisian v University of Southern California	2018	Arbitration	X	X
Lincoln Electric v Harbor Freight Tools	2018	Federal District Court, ND of Ohio	X	
Estate of Chui	2018	California Superior Court, Los Angeles	X	
Scopely v Kung Fu Factory	2018	JAMS	X	
Golden, as trustee for Aletheia v. O'Melveny & Myers	2018	Phillips ADR	X	
Solid 21 v Hublot	2018	Federal District Court, Central District of California	X	

**Testimony List of Jeffrey H.  
Kinrich (2013 - Present)**

<b><u>MATTER</u></b>	<b><u>YEAR</u></b>	<b><u>COURT</u></b>	<b><u>DEPOSITION</u></b>	<b><u>TRIAL</u></b>
Newmark Realty Capital v BGC Partners, Newmark & Co., et al.	2018	Federal District Court, Northern District of California	X	
Jet Edge v Schembari	2018	Federal District Court, Central District of California	X	
Kjaer Weis v Kimsaprincess	2018	Federal District Court, Central District of California	X	
Wi-LAN v Vizio	2018	Federal District Court, District of Delaware	X	
Marriage of Stoddard	2018	California Superior Court; Los Angeles	X	
Marriage of Bower	2018	California Superior Court, San Diego	X	



## Appendix B

### Materials Considered

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#### ***Court Documents***

Complaint, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, June 20, 2018

Declaration of Joshua A. Sliker in Support of Plaintiff Tesla, Inc.'s Emergency Motion for Authorization to Issue Document Preservation Subpoenas, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, June 22, 2018

Declaration of Andrew Lindemulder in Support of Plaintiff Tesla, Inc.'s Emergency Motion for Authorization to Issue Document Preservation Subpoenas, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, June 22, 2018

Certificate Regarding Service of Plaintiff Tesla, Inc.'s Emergency Motion for Authorization to Issue Document Preservation Subpoenas, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, June 22, 2018

Plaintiff Tesla, Inc.'s Emergency Motion for Authorization to Issue Document Preservation Subpoenas, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, June 25, 2018

Declaration of Joshua A. Sliker in Support of Plaintiff Tesla, Inc.'s Second Emergency Motion for Authorization to Issue Document Preservation Subpoenas, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, June 26, 2018

Declaration of Andrew Lindemulder in Support of Plaintiff Tesla, Inc.'s Second Emergency Motion for Authorization to Issue Document Preservation Subpoenas, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, June 26, 2018

Certificate Regarding Service of Plaintiff Tesla, Inc.'s Second Emergency Motion for Authorization to Issue Document Preservation Subpoenas, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, June 26, 2018

Plaintiff Tesla, Inc.'s Second Emergency Motion for Authorization to Issue Document Preservation Subpoenas, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, June 27, 2018

Stipulation and Order Regarding Extension of Time and Discovery, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, July 11, 2018

Defendant Martin Tripp's Answer to Complaint and Counterclaim, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, July 31, 2018

Plaintiff Tesla, Inc.'s Answer to Defendant Martin Tripp's Counterclaim, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, August 21, 2018

Plaintiff Tesla, Inc.'s First Set of Requests for Production of Documents, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, July 20, 2018

Plaintiff Tesla, Inc.'s First Set of Interrogatories, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, July 20, 2018

Defendant/Counterclaimant Martin Tripp's Federal Rule of Civil Procedure 26 Disclosure Statement, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, August 29, 2018

Plaintiff Tesla, Inc.'s Initial Disclosures, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, August 29, 2018

Defendant/Counterclaimant Martin Tripp's Response to Plaintiff/Counterdefendant Tesla, Inc.'s First Set of Requests for Production of Documents, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, August 29, 2018

Defendant/Counterclaimant Martin Tripp's Response to Plaintiff/Counterdefendant Tesla, Inc.'s First Set of Interrogatories, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, August 29, 2018

Plaintiff Tesla Inc.'s First Set of Requests for Admission to Defendant Martin Tripp, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, September 11, 2018

Plaintiff Tesla Inc.'s Second Set of Requests for Admission to Defendant Martin Tripp, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, September 11, 2018

Plaintiff Tesla Inc.'s Second Set of Interrogatories to Defendant Martin Tripp, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, September 11, 2018

Defendant/Counterclaimant Martin Tripp's First Set of Requests for Production of Documents, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, September 24, 2018

Defendant/Counterclaimant Martin Tripp's First Set of Interrogatories, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, September 24, 2018

Minutes of Proceedings, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 1, 2018

Defendant/Counterclaimant Martin Tripp's First Amended and Restated Federal Rule of Civil Procedure 26 Disclosure Statement, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 11, 2018

Defendant/Counterclaimant Martin Tripp's First Supplemental Responses and Objections to Plaintiff/Counterdefendant Tesla, Inc.'s First Set of Interrogatories, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 11, 2018

Protective Order Regarding the Disclosure and Use of Discovery Material, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 11, 2018

Defendant/Counterclaimant Martin Tripp's Responses and Objections to Plaintiff/Counterdefendant Tesla, Inc.'s First Set of Requests for Admission, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 11, 2018

Defendant/Counterclaimant Martin Tripp's First Supplemental Responses and Objections to Plaintiff/Counterdefendant Tesla, Inc.'s First Set of Requests for Production of Documents, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 11, 2018

Defendant/Counterclaimant Martin Tripp's Responses and Objections to Plaintiff/Counterdefendant Tesla, Inc.'s Second Set of Requests for Production of Documents, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 11, 2018

Defendant/Counterclaimant Martin Tripp's Responses and Objections to Plaintiff/Counterdefendant Tesla, Inc.'s Second Set of Interrogatories, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 11, 2018

Plaintiff Tesla, Inc.'s Third Set of Requests for Production to Defendant Martin Tripp, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 16, 2018

Plaintiff Tesla, Inc.'s Third Set of Interrogatories to Defendant Martin Tripp, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 16, 2018

Plaintiff and Counter-Defendant Tesla Inc.'s Responses and Objections to Defendant and Counter-Claimant Martin Tripp's First Set of Requests for Production of Documents, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 24, 2018

Plaintiff and Counter-Defendant Tesla Inc.'s Responses and Objections to Defendant and Counter-Claimant Martin Tripp's First Set of Interrogatories, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 24, 2018

Verification Re: Plaintiff and Counter-Defendant Tesla Inc.'s Responses and Objections to Defendant and Counter-Claimant Martin Tripp's First Set of Interrogatories Served on October 24, 2018, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, October 30, 2018

Plaintiff Tesla, Inc.'s First Amended Initial Disclosures, *Tesla, Inc., Plaintiff, v. Martin Tripp, Defendant*, Case No. 3:18-cv-00296-LRH-CBC, November 1, 2018

#### ***Documents Provided by Tesla***

TRIPP00940

CNTL00147832

CNTL00779373

CNTL00779375

CNTL00779377

CNTL00779380 – CNTL00779388

CNTL00779390 – CNTL00779456

#### ***Websites and Other Materials***

"About Tesla," Tesla, available at <https://www.tesla.com/about>, accessed November 5, 2018

Linette Lopez, "Internal documents reveal Tesla is blowing through an insane amount of raw material and cash to make Model 3s, and production is still a nightmare," *Business Insider*,

June 4, 2018, available at <https://www.businessinsider.com/tesla-model-3-scrap-waste-high-gigafactory-2018-5>, accessed November 5, 2018

Linette Lopez, “Tesla’s new Gigafactory robots that are supposed to help it ramp up Model 3 production aren’t working yet,” *Business Insider*, June 6, 2018, available at <https://www.businessinsider.com/teslas-new-gigafactory-robots-are-not-making-batteries-yet-2018-6>, accessed November 5, 2018

Martin Tripp (@trippedover), 11:28 AM - 3:50 PM (PT), August 15, 2018, Tweets

Tesla, 10-Q, for the period ending June 30, 2018, available at [https://www.sec.gov/Archives/edgar/data/1318605/000156459018019254/tsla-10q\\_20180630.htm](https://www.sec.gov/Archives/edgar/data/1318605/000156459018019254/tsla-10q_20180630.htm)

“Tesla Motors Ltd - Company Profile,” Bloomberg, available at <https://www.bloomberg.com/profiles/companies/0651778D:LN-tesla-motors-ltd>, accessed November 5, 2018

“Weighting for QAUTO,” NASDAQ OMX Global Automobile Index (QAUTO), available at <https://indexes.nasdaqomx.com/Index/Weighting/QAUTO>, accessed November 5, 2018

### ***Interviews***

Interview with Nicholas Gicinto, November 2, 2018

Interview with Imari Henderson, November 2, 2018

Interview with Andrew Lindemulder, November 2, 2018

### ***Data***

Bloomberg

Factiva

Exhibit 1  
Martin Tripp Unearned Wages  
May 28, 2018 - June 19, 2018

Pay Type	Hours	Pay Rate	Cost
	[A]	[B]	[C]=[A]*[B]
Regular Pay	[REDACTED]	[REDACTED]	[REDACTED]
Overtime			
Holiday			
Paid Time Off			
Total			\$7,385

Sources:

- [1] CNTL00147832.
- [2] CNTL00779426.
- [3] CNTL00779427.
- [4] CNTL00779428.

Nisos Out-of-Pocket Costs

Expense	Hours Expended	Hourly Rate	Total Cost
Investigation	[REDACTED]	[REDACTED]	[REDACTED]
Background	[REDACTED]	[REDACTED]	[REDACTED]
Lead Investigator	[REDACTED]	[REDACTED]	[REDACTED]
Total Labor			
Meals			[REDACTED]
Transportation			[REDACTED]
Flights			[REDACTED]
Hotel			[REDACTED]
Miscellaneous			[REDACTED]
Total Travel Expenses			
Forensics Kit			[REDACTED]
Forensics Package			[REDACTED]
Total Equipment			
Total Spend			\$249,494

Sources:

- [1] CNTL00779380-CNTL00779388.
- [2] CNTL00779390-CNTL00779398.
- [3] CNTL00779400-CNTL00779423.

Exhibit 3  
Tesla Employee Costs on Tripp Investigation

Employee	Hours Worked on Tripp Investigation	Typical Weekly Hours Worked	Annual Compensation	Hourly Compensation	Cost
Nicholas Gicinto	[A]	[B]	[C]	[D]	[E]=[A]*[D]
Imari Henderson					
Andrew Lindemulder					
Total					\$12,425

Notes:

[A]-[B] Estimates based on interviews conducted with the three Tesla employees.

[C] [REDACTED]

[D] Calculated for Nick Gicinto and Imari Henderson as [C]/([B]\*52 weeks).

Sources:

[1] CNTL00779373.

[2] CNTL00779375.

[3] CNTL00779377.

[4] Interviews conducted on 11/2/2018 with Nick Gicinto, Imari Henderson, and Andrew Lindemulder.

Exhibit 4  
Tesla Out-of-Pocket Damages

Nisos Out-of-Pocket Costs	\$249,494
Tesla Employee Costs	\$12,425
<b>Total</b>	<b>\$261,919</b>

Notes:

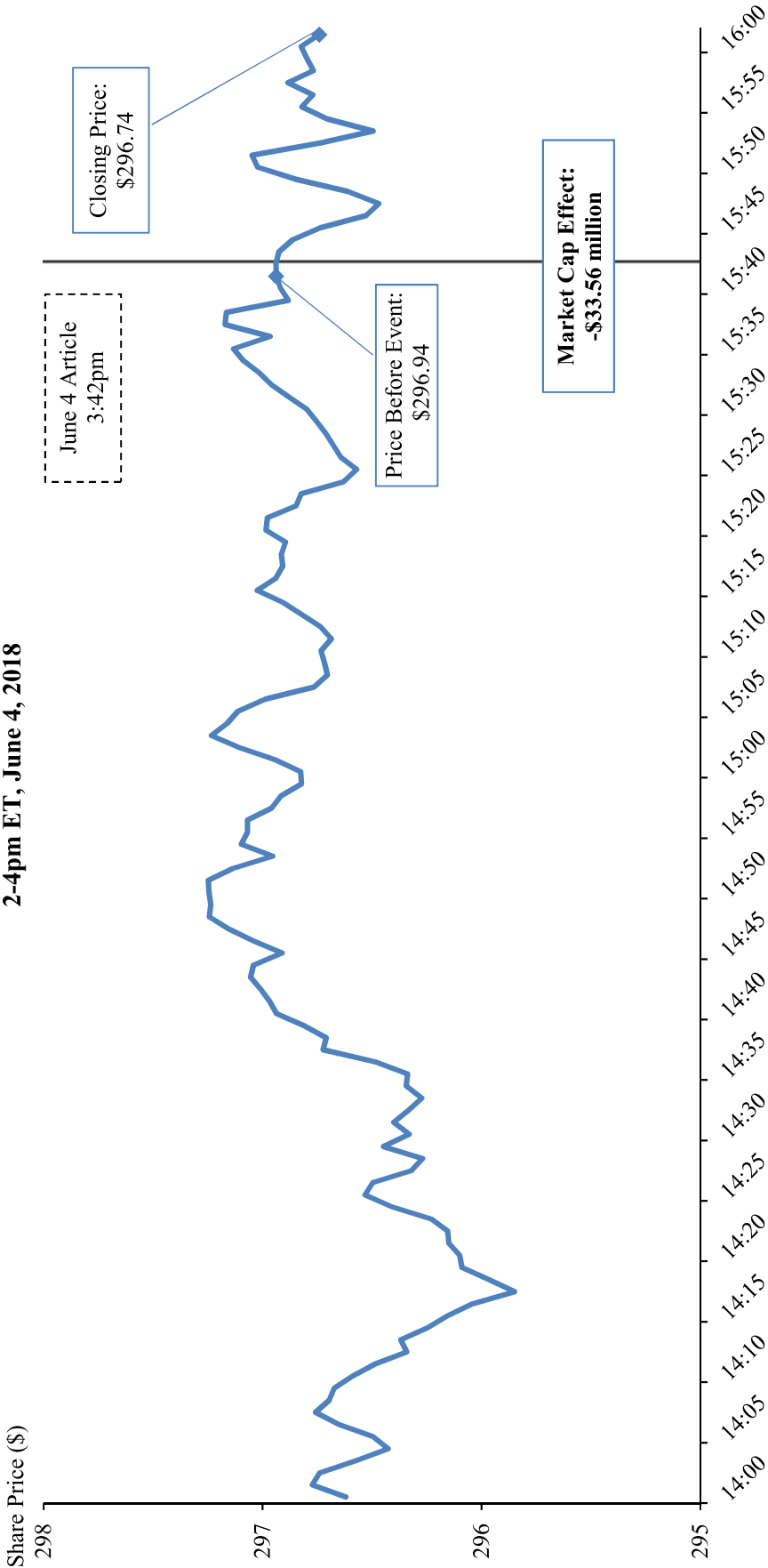
- [A] Based on dollar amount in Exhibit 2 “Total Spend.”
- [B] Based on dollar amount in Exhibit 3 “Total.”

Sources:

- [1] Exhibit 2.
- [2] Exhibit 3.



**Exhibit 5**  
**Tesla Share Price by Minute**  
**2-4pm ET, June 4, 2018**



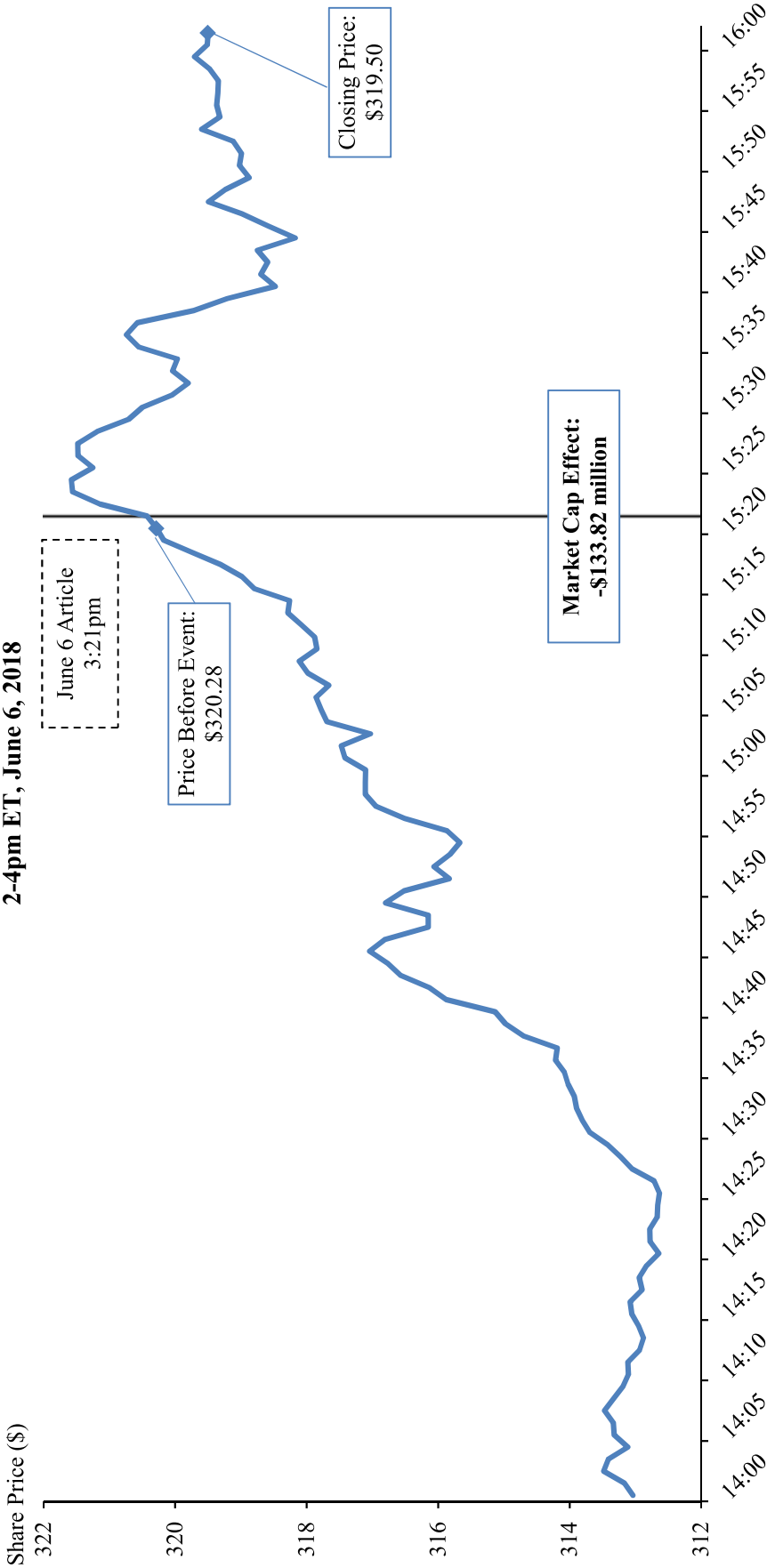
**Notes:**

- [A] Share Price is calculated as the simple average price of all trades recorded within each minute.
- [B] Price Before Event is defined as the share price at 3:41 pm. Closing Price is from Bloomberg's "PX\_LAST" variable.
- [C] The time of the news release is determined based on the timestamp of the June 4 Article on *Business Insider*'s website.
- [D] Change in market capitalization is calculated as [Closing Price - Price Before Event]\*Shares Outstanding.
- [E] All times are in ET.

**Sources:**

- [1] Complaint.
- [2] Bloomberg.
- [3] Linette Lopez, "Internal documents reveal Tesla is blowing through an insane amount of raw material and cash to make Model 3s, and production is still a nightmare," *Business Insider*, June 4, 2018, available at <https://www.businessinsider.com/tesla-model-3-scrap-waste-high-gigafactory-2018-5>.

Exhibit 6  
Tesla Share Price by Minute  
2-4pm ET, June 6, 2018



**Notes:**

- [A] Share Price is calculated as the simple average price of all trades recorded within each minute.
- [B] Price Before Event is defined as the share price at 3:20pm. Closing Price is from Bloomberg's "PX\_LAST" variable.
- [C] The time of the news release is determined based on the timestamp of the June 6 Article on *Business Insider*'s website.
- [D] Change in market capitalization is calculated as [Closing Price - Price Before Event]\*Shares Outstanding.
- [E] All times are in ET.

**Sources:**

- [1] Complaint.
- [2] Bloomberg.
- [3] Linette Lopez, "Tesla's new Gigafactory robots that are supposed to help it ramp up Model 3 production aren't working yet," *Business Insider*, June 6, 2018, available at <https://www.businessinsider.com/teslas-new-gigafactory-robots-are-not-making-batteries-yet-2018-6>.

Exhibit 7  
Tesla Market Capitalization Effect, as of June 4 and June 6 Articles

	June 4, 2018		June 6, 2018	
	3:42 PM ET		3:21 PM ET	
Price Before Event				
Closing Price	\$296.94		\$320.28	[A]
Price Difference	\$296.74		\$319.50	[B]
	-\$0.20		-\$0.78	[C] = [B]-[A]
Shares Outstanding (millions)	170.52		170.52	[D]
Market Capitalization Effect (\$millions)	-\$33.56		-\$133.82	[E] = [C]*[D]
Total Market Capitalization Effect (\$millions)			-\$167.37	[F]

Notes:

- [A] Calculated as the average price of tick price data in the minute before the event, e.g., 3:41 PM for June 4 and 3:20 PM for June 6.
- [B] Closing price is as of 4:00pm ET. Closing price data are from Bloomberg's "PX\_LAST" variable.
- [D] Shares outstanding are as of June 30, 2018.

Sources:

- [1] Bloomberg.
- [2] Tesla, 10-Q, for the period ending June 30, 2018.
- [3] Linette Lopez, "Internal documents reveal Tesla is blowing through an insane amount of raw material and cash to make Model 3s, and production is still a nightmare," *Business Insider*, June 4, 2018, available at <https://www.businessinsider.com/tesla-model-3-scrap-waste-high-gigafactory-2018-5>.
- [4] Linette Lopez, "Tesla's new Gigafactory robots that are supposed to help it ramp up Model 3 production aren't working yet," *Business Insider*, June 6, 2018, available at <https://www.businessinsider.com/teslas-new-gigafactory-robots-are-not-making-batteries-yet-2018-6>.

Exhibit 8  
Comparison of Tesla Stock Returns with Industry Benchmarks, as of June 4 and June 6 Articles

	June 4, 2018				June 6, 2018			
	Price Before Event	Closing Price	Return		Price Before Event	Closing Price	Return	
Tesla	\$296.94	\$296.74	-0.07%		\$320.28	\$319.50	-0.25%	
S&P 500 Index	\$2,747.47	\$2,746.87	-0.02%		\$2,767.97	\$2,772.35	0.16%	
NASDAQ Composite Index	\$7,605.25	\$7,606.46	0.02%		\$7,677.38	\$7,689.24	0.15%	
NASDAQ OMX Global Automobile Index	\$332.52	\$332.65	0.04%		\$334.90	\$335.06	0.05%	

Notes:

[A] Price Before Event is calculated as the average price of tick price data in the minute before the event, e.g., 3:41 PM for June 4 and 3:20 PM for June 6.

[B] Closing price is as of 4:00pm ET. Closing price data are from Bloomberg's "PX\_LAST" variable.

Source:

[1] Bloomberg.